UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DATATREASURY CORP. Plaintiff, v. SMALL VALUE PAYMENTS COMPANY Defendant.	No. 2-04CV-85 AGREED AND AMENDED MOTION TO CONSOLIDATE

AGREED AND AMENDED MOTION TO CONSOLIDATE MARKMAN HEARINGS

COMES NOW Defendant Small Value Payments Company ("SVPCo"), joined by Plaintiff DataTreasury Corporation ("DT" or "DataTreasury"), to respectfully submit the instant Agreed and Amended Motion to Consolidate Markman hearings (the "Amended Motion"). On April 3, 2006, SVPCo filed a Motion to Consolidate Markman Hearings (the "Motion"), requesting consolidation, for Markman hearing purposes only, with a related case, DataTreasury Corp. v. Viewpointe Archive Services, L.L.C., No. 05CV290 (the "Viewpointe Litigation"). SVPCo amends its Motion to inform the Court that all relevant parties—SVPCo, Magtek, Viewpointe, and DT—now consent to holding one consolidated Markman hearing on June 8, 2006, the scheduled date for the Markman hearing in the Viewpointe Litigation. Previously, by order dated March 1, 2006, this Court granted DT's unopposed motion for a consolidated Markman hearing for this litigation and DataTreasury Corp. v. Magtek, No. 03CV459 (the "Magtek Litigation"), further ordering that such consolidated hearing (the "SVPCo/Magtek Hearing") take place on April 18, 2006.

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At the time SVPCo filed its Motion, SVPCo did not have the agreement of DataTreasury or Viewpointe.[1] Since then, both DT and Viewpointe have indicated that they do not oppose a consolidated Markman hearing for this matter, the Magtek Litigation, and the Viewpointe Litigation, to be held on June 8. In submitting this Amended Motion, the parties do not seek consolidation of their respective claim construction positions; the requested consolidation is solely for purposes of conducting a single Markman hearing.

In light of the foregoing, SVPCo respectfully requests that this Court: (1) adjourn the April 18, 2006 date for the SVPCo/Magtek Hearing; (2) order a consolidated Markman hearing for this case, the Magtek Litigation, and the Viewpointe Litigation on June 8, 2006, including guidelines as to how the parties shall proceed at the hearing (including time limitations), as well as any additional and further relief this Court deems just and proper.

Dated: April 6, 2006

[1] SVPCo did confer with both DT and Viewpointe prior to filing its Motion, and SVPCo did have the consent of Magtek when it filed its Motion.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing instrument was served upon all counsel of record in the above entitled and numbered cause on this the 6th day of April, 2006.

__X___ Via ECF

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CERTIFICATE OF CONFERENCE

The undersigned certifies that counsel for Small Value Payments Company has communicated with counsel for DataTreasury, Inc., Magtek, Inc., and Viewpointe Archive Services, L.L.C. and each has agreed to the relief sought in this motion.

Preston W. McGee